

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION II

In the matter of:

PUERTO RICO ELECTRIC POWER  
AUTHORITY,  
South Coast Steam Plant  
Guayanilla, Puerto Rico

**NOTICE OF VIOLATION:**

Index No. CAA-02-2002-1308

**I. STATUTORY AUTHORITY**

THIS NOTICE OF VIOLATION ("NOV") is issued to the Puerto Rico Electric Power Authority, ("Respondent") for violations at its South Coast Steam Plant located at PR Road 127, km15.7, Guayanilla, Puerto Rico (the "facility"), pursuant to Section 113 of the Clean Air Act (the "Act"), 42 U.S.C. §7413, as amended. Section 113 of the Act requires the Administrator of the U.S. Environmental Protection Agency ("EPA") to notify both the person and the State in which the violation occurred of the finding whenever EPA finds that a person violated a requirement of a State Implementation Plan ("SIP"). The authority to issue this NOV has been duly delegated to the Division Director of the Caribbean Environmental Protection Division, from the Administrator through the Regional Administrator of EPA Region 2.

**II. EPA FINDINGS: PUERTO RICO SIP:**

**A. Visible Emissions:**

Rule 403 of the Puerto Rico Regulation for the Control of Atmospheric Pollution, (PRRCAP) Visible Emissions, provides in pertinent part that:

No person shall cause or permit the emission of visible air pollutants of an opacity greater than 20 percent (6-minute average). Compliance with the visible emissions limitation shall be determined by using the test methods in Rule 106.

Respondent owns and operates the South Coast Steam Plant which is a source of air emissions. On or about October 18, 2001, January 24 and January 31, 2002, two duly-designated

EPA inspectors conducted an inspection at Respondent's South Coast Steam Plant.

During the inspection, the EPA inspectors observed that Respondent was operating the facility with a visual emission greater than 20% opacity. Specifically, the visual emission readings taken by the EPA inspector on October 18, 2001, show the following violation(s):

UNIT	VISIBLE EMISSIONS READING
Stack 3	21.04%, 21.04%

On January 24, 2002, the following:

UNIT	VISIBLE EMISSIONS READING
Stack 6-2	23.125%

On January 31, 2002, the following:

UNIT	VISIBLE EMISSIONS READING
Stack 4	26.876%, 42.29%
Stack 6-1	33.96%, 36.25%, 31.89%

Respondent's operation of the facility, as described above, is in violation of the applicable statutes and regulations of both Commonwealth and federal law until it establishes continued compliance. Furthermore, EPA and Respondent entered into a Consent Decree, Civil Action No. 93-2527 CCC, under which Respondent is obliged to operate each generating facility in compliance with Rule 403 of the PRRCAP and the applicable federal law.

### **III. ENFORCEMENT**

Section 113 of the Act, 42 U.S.C. § 7413, provides that after 30 days from the issuance of this NOV, the EPA may:

- issue an order requiring compliance with the requirements or prohibitions of the SIP;
- issue an administrative penalty order pursuant to Section 113(d) of the Act, for civil administrative penalties of up to \$25,000<sup>1</sup> per day of violation;

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<sup>1</sup>See the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note; Pub. L. 101-410, enacted October 5, 1990; 104 Stat.890), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701 note; Public Law 104-134, enacted April 26, 1996; 110 Stat. 1321). The Debt Collection Improvement Act or "DCIA" requires each Federal agency to issue regulations adjusting for inflation the maximum civil monetary

- bring a civil action pursuant to Section 113 (b) of the Act, for injunction relief and/or civil penalties of not more than \$25,000<sup>2</sup> per day for each violation.
- bring a criminal prosecution seeking fines and/or imprisonment pursuant to Section 113(c) if Respondent knowingly violates any requirement or prohibition of an applicable implementation plan during any period of federally assumed enforcement.

#### IV. PENALTY ASSESSMENT CRITERIA

If a penalty is assessed in a civil or administrative action, Section 113 (e)(1) of the Act, 42 U.S.C. § 7413 (e) (1), states that the Administrator or the court, as appropriate, shall, in determining the amount of penalty to be assessed, consider (in addition to such other factors as justice may require) the size of the business, the economic impact of the penalty on the business, the violator's full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), the payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation.

Section 113 (e)(2) of the Act, 42 U.S.C. § 7413 (e) (2), allows the Administrator, or the court as appropriate, to assess a penalty for each day of violation. The number of days of violation shall include the date of the notice and each and every day thereafter until Respondent achieves continuous compliance. If Respondent proves that there was an intermittent day of compliance or that the violation was not continuous in nature, then the EPA may reduce the penalty accordingly.

Upon conviction under Section 113(c), Respondent may be fined pursuant to Title 18 of the

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penalties that can be imposed pursuant to such agency's statutes. With the adoption of this rule implementing these statutes, all violations which take place after January 30, 1997 are subject to the new statutory maximum civil penalty amounts. With limited exceptions not relevant to this referral, all of the statutory penalty provisions applicable to this action have been increased by the maximum allowed: ten percent. All affected penalty provisions and their statutory maximum amounts are set out in Table 1 of 40 C.F.R. § 19.4. In this case, the statutory maximum penalties under the CAA are increased to \$27,500 under the DCIA as well as under the CAA penalty policy amounts.

<sup>2</sup>*Id* at n.1.

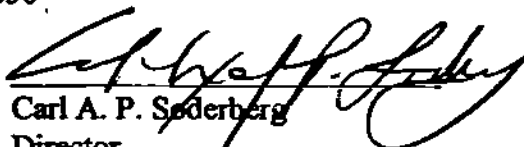
United States Code, or imprisoned for a term not to exceed five years or both. If the person is a second time offender, the maximum punishment shall be doubled with respect to both the fine and the term of imprisonment. Also, the facility will be declared ineligible for Federal contracts, grants, and loans. The Administrator may extend this ineligibility to other facilities owned by the Respondent (Section 306 of the Act, the regulations promulgated thereunder at 40 CFR Part 15, and Executive Order 11738).

**V. OPPORTUNITY TO CONFER**

Regarding the violations included in this NOV, EPA may give an opportunity to Respondent to confer provided it requests such a conference within five (5) days of receipt of this NOV. A request for a conference should be directed to:

Hector Vélez Cruz, Esq.  
Office of Regional Counsel  
U.S. Environmental Protection Agency - Region 2  
1492 Ponce de Leon Ave.  
Centro Europa Building Suite 207  
San Juan, Puerto Rico 00910  
(787) - 977-5850

Issued: Feb 15, 2002  
San Juan, Puerto Rico

  
Carl A. P. Soderberg  
Director  
Caribbean Environmental Protection Division  
1492 Ponce de Leon Ave.  
Centro Europa Building Suite 207  
San Juan, Puerto Rico 00910  
(787) - 977-5801

To: Mr. Hector Rosario  
Executive Director  
Puerto Rico Electric Power Authority  
P.O. Box 9386  
San Juan, Puerto Rico 00907-0386

cc: Mr. Angel O. Berrios, Director  
Air Quality Area  
Puerto Rico Environmental Quality Board  
P.O. Box 11488  
San Juan, Puerto Rico 00910

## VISIBLE EMISSION OBSERVATION FORM 1

Method (Select One) Method 9 208A 208B Other \_\_\_\_\_

Company Name Puerto Rico Electric Power Authority  
 Facility Name South Coast Steam Plant  
 Street Address PR 27 km 15 Tallaboa  
 City Guayama State PR Zip \_\_\_\_\_

Process Steamboilers Unit 3 Operating Mode \_\_\_\_\_  
 Control Equipment \_\_\_\_\_ Operating Mode \_\_\_\_\_

Describe Emission Point Black & White Stack 3

Height of Emission Pt. \_\_\_\_\_  
 Start \_\_\_\_\_ End \_\_\_\_\_  
 Distance to Emission Pt. \_\_\_\_\_  
 Start 804 yd End 804 yd  
 Direction to Emission Pt. (Degrees) \_\_\_\_\_  
 Start 316°NW End 316°NW

Vertical Angle to Obs. Pt. \_\_\_\_\_  
 Start 8° End 8°  
 Direction to Obs. Pt. (Degrees) \_\_\_\_\_  
 Start 316°NW End 316°NW  
 Distance and Direction to Observation Point from Emission Point \_\_\_\_\_  
 Start 120 straight up End 120 straight up

Describe Emissions \_\_\_\_\_  
 Start lifting End lifting  
 Emission Color \_\_\_\_\_  
 Start black End black  
 Attached ☐ Detached ☐ None ☒

Describe Plume Background \_\_\_\_\_  
 Start sky End sky  
 Background Color \_\_\_\_\_  
 Start light blue End light blue  
 Sky Conditions \_\_\_\_\_  
 Start rather overcast End rather overcast  
 Wind Speed \_\_\_\_\_  
 Start 4-6 mph End 4-6 mph  
 Wind Direction \_\_\_\_\_  
 Start EAST End EAST  
 Ambient Temp. \_\_\_\_\_  
 Start 80 End 77°F  
 Wet Bulb Temp. \_\_\_\_\_  
 Start 77°F End 67%

Source Layout Sketch \_\_\_\_\_  
 Draw North Arrow ☐ TN ☐ HN  
  
 Longitude \_\_\_\_\_ Latitude \_\_\_\_\_ Declination \_\_\_\_\_

Additional Information \_\_\_\_\_  
VE readings were taken at 1200m straight up  
before the plume bends and at the point of  
maximum spreading  
 VEOF1.1

Form Number \_\_\_\_\_ Page \_\_\_\_\_ Of \_\_\_\_\_  
 Continued on VEO Form Number \_\_\_\_\_

Observation Date		Time Zone		Start Time		End Time	
10/18/01		EST-PR		8:39am		9:09am	
Sec	Min	0	15	30	45	Comments	
1	20	25	20	15			
2	15	20	15	15			
3	10	20	20	20			
4	15	25	25	30			
5	20	10	20	25			
6	15	25	35	35			
7	35	15	10	30			
8	10	20	20	25			
9	30	25	20	25			
10	15	10	10	10			
11	10	10	15	25			
12	30	10	20	20			
13	15	10	10	15			
14	20	15	25	15			
15	25	40	25	20			
16	35	25	20	25			
17	30	15	15	25			
18	30	20	15	15			
19	20	20	10	10			
20	25	5	25	30			
21	35	25	15	15			
22	15	15	25	20			
23	15	20	20	15			
24	20	15	15	15			
25	5	15	20	15			
26	20	30	25	20			
27	15	25	25	10			
28	15	10	5	10			
29	20	15	20	20			
30	25	35	15	45			

Observer's Name (Print) Francisco Claudio Rios  
 Observer's Signature Francisco Claudio Rios Date 10/18/01  
 Organization EPA/CEPD/ESD  
 Certified By ETA Date June 6, 2001

## VISIBLE EMISSION OBSERVATION FORM 1

Method (Use Code One) Method 9 200A 200B Other \_\_\_\_\_

Company Name Public Electric Power Authority  
 Facility Name South Coast Steam Plant  
 Street Address PR Road Taliboa Ward  
 City Guayanilla State PR Zip \_\_\_\_\_

Process Combustion Unit G-2 Operating Mode \_\_\_\_\_  
 Control Equipment \_\_\_\_\_ Operating Mode \_\_\_\_\_

Describe Emission Point  
Red and white stack

Height of Emission Pt. Start 254 ft End 254 ft Weight of Emission Pt. Rel. to Observer Start 254 ft End 254 ft  
 Distance to Emission Pt. Start 614 yd End 614 yd Direction to Emission Pt. (Degrees) Start 300 NW End 300 NW  
 560 m 560 m

Vertical Angle to Obs. Pt. Start 90 End \_\_\_\_\_ Direction to Obs. Pt. (Degrees) Start 300 NW End 300 NW  
 Distance and Direction to Observation Point from Emission Point Start 300 NW End 300 NW  
300 NW straight up straight up

Describe Emissions  
 Start lofting End lofting  
 Emission Color Start black End black Water Droplet Plume Attached ☐ Detached ☐ None ☒

Describe Plume Background  
 Start blue sky End \_\_\_\_\_ Sky Conditions Start cloudy End cloudy  
 Background Color Start blue End blue Wind Speed Start 4-6 mph End 4-6 mph Wind Direction Start SE End SE  
 Ambient Temp. Start 83°F End 86 Wet Bulb Temp. 67% to 61%

Source Layout Sketch

Draw North Arrow ☐ IN ☐ OUT

Observer's Position

Observer's Name (Print) Francisco Claudio Rios

Observer's Signature Francisco Claudio Rios

Organization USEPA CEPD

Certified by ETA Date Dec 5, 2007

Additional Information

Form Number \_\_\_\_\_ Page \_\_\_\_\_ Of \_\_\_\_\_  
 Continued on VEO Form Number \_\_\_\_\_

Observation Date Jan 24, 2002 Time Zone EST+K Start Time 8:40 am End Time 8:49 am

Sec	0	15	30	45	Comments
1	30	25	35	20	Sun is partially black
2	30	31	25	30	
3	25	15	15	25	
4	25	15	15	25	
5	30	20	15	25	cloud as body and of plume
6	20	20	20	20	
7	-	-	-	-	
8	-	-	-	-	
9					Opacity VE were interrupted due to reflection of background
10					
11					
12					
13					
14					
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30					





## EPA

Form Number					Page		Of	
Continued on VEO Form Number								

Observation Date		Time Zone		Start Time		End Time	
Jan 31, 2002		EST		10:12		10:35	
Sec	0	10	20	30	40	Comments	
1	20	25	35	40			
2	45	50	45	25		Black smoke	
3	20	25	20	30		Black smoke	
4	25	25	30	25		(33.96)	
5	20	35	25	25			
6	20	35	20	25		Whitish	
7	40	20	—	—		Cloud got in way of plume	
8							
9							
10	30	35	35	35		Black smoke	
11	35	20	35	40		Whitish smoke	
12	35	40	45	50		Black smoke at	
13	45	45	40	40		stack down	
14	10	15	25	35		4500 ft / low	
15	40	40	45	45		(36.25%)	
16	50	45	20	20		Shattered / clearing up	
17	25	35	40	45		Turkish smoke	
18	50	50	45	40		black smoke	
19	20	15	25	15		Clearing to white	
20	10	15	20	20		Black	
21	30	40	45	35		31.81% (31.81%)	
22	40	20	25	25		Whitish at 45 sec	
23	20	40	25	25		black smoke	
24	25	15	20	25		black smoke	
25	20	25	20	25		Cloud got in background	
26	20						
27							
28							
29							
30							

Observed by	Charles H. Rivera Villegas	Date	Jan 31, 2000
Observed by title	Ch. H. -	Date	Jan 31, 2000
Organization	EPA of 2 (EPA)	Date	Jan 31, 2000
Carried by	ETA	Date	Jan 31, 2000

Decalage Emblems		<div> <div>Start</div> <div>End</div> </div> <div> <div>Emblem Color</div> <div>Master Decal Plume</div> </div> <div> <div>Start</div> <div>End</div> </div> <div> <div>Attached</div> <div>Detached</div> <div>None</div> </div>	
<div> <div>Start</div> <div>End</div> </div> <div> <div>Emblem Color</div> <div>Master Decal Plume</div> </div> <div> <div>Start</div> <div>End</div> </div> <div> <div>Attached</div> <div>Detached</div> <div>None</div> </div>		<div> <div>Start</div> <div>End</div> </div> <div> <div>Emblem Color</div> <div>Master Decal Plume</div> </div> <div> <div>Start</div> <div>End</div> </div> <div> <div>Attached</div> <div>Detached</div> <div>None</div> </div>	

Descriptive Phrase Background		Fog	
Start	blue & grey	Start	blue sky
Background Color		Sky Condition	
Start	blue	Start	cloudy
End	blue	End	cloudy
Wind Speed		Wind Direction	
Start	Emph	Start	NE
End	6-7 mph	End	NE
Ambient Temp.		Wet Bulb Temp.	
Start	69.1	Start	69.1
End	69.1	End	49

Source Layout Sketch

Draw North Arrow

TH PH

6-2 5-2 5-1 4 3 1-2

Observer's Position

Commo Fence

PR-#

Union

140°

Sun Location Line

Rock

Sh

Pine

Gr

Water

Longitude

Latitude

Declination

Additional Information